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October 28, 2021

By ECF

Magistrate Judge Peggy Kuo
United States District Court for the Eastern District of New York
225 Cadman Plaza East, Courtroom 11C South
Brooklyn, New York 11201

Re: Rosenfeld v. AC2T, Inc., No. 1:20-cv-04662-FB-PK (E.D.N.Y.)

Dear Judge Kuo:

My firm represents Defendant AC2T, Inc. ("Defendant") in the action referenced above. Together with Plaintiff Kalman Rosenfeld ("Plaintiff"), and in accordance with Rule IV of Your Honor's Individual Rules, we write to respectfully request an extension of the current Scheduling Order. A Stipulated Proposed Amended Scheduling Order signed by both parties is attached as **Exhibit A**.

The current Scheduling Order sets a December 7, 2021 deadline for Plaintiff to file his motion for Rule 23 class certification. The current Scheduling Order contemplated that substantial discovery would be completed before Plaintiff files his class certification motion. Defendant has been proceeding in good faith in its efforts to identify, gather, review, and produce documents responsive to Plaintiff's requests. For several reasons, these good-faith efforts have taken longer than Defendant had initially anticipated. Defendant anticipates making its first production of documents this week, and plans to make subsequent productions on a rolling basis. Defendant cannot yet predict with reasonable certainty when it will complete its document production.

Accordingly, to allow the parties time to conduct substantial discovery before proceeding to class certification motions, the parties jointly request that the Court set March 7, 2022 as the new deadline for Plaintiff to move for class certification. Consistent with the existing Scheduling Order, all subsequent discovery and motion deadlines would follow from the date that Plaintiff files his class certification motion. The parties are hopeful that document production will be completed in time to comply with this revised schedule, but they are mindful of the fact that further extensions may be necessary if Defendant's document production is not completed with sufficient time to conduct document review, depositions, and other necessary steps prior to Plaintiff's deadline for filing his motion for class certification. This is the first request to amend the Scheduling Order.



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We appreciate the Court's consideration. If Your Honor has any questions or concerns, we can be available at the Court's convenience.

Respectfully,

/s/ Edward P. Boyle

Edward P. Boyle

cc: Counsel of Record (*via ECF*)

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
:
KALMAN ROSENFELD, individually and :
on behalf of all others similarly situated, : No.: 1:20-cv-04662-FB-PK
:
Plaintiff, :
:
v. : **STIPULATED PROPOSED**
: **AMENDED SCHEDULING**
AC2T, INC. : **ORDER**
:
Defendant. :
:
-----X

WHEREAS the parties have met and conferred and agreed upon an amended discovery schedule, it is hereby stipulated to and agreed as follows:

1. Motion for Rule 23 Class Certification shall be due on or before March 7, 2022.
2. The Opposition to the Motion for Rule 23 Class Certification shall be due 49 days after the moving brief is filed.
3. The Reply in Further Support of the Motion for Rule 23 Class Certification shall be due 28 days after the Opposition is filed.
4. All fact discovery is to be completed 60 days after the ruling on the motion for class certification.
5. A joint status report certifying the close of fact discovery and indicating whether expert discovery is needed is due 60 days after the ruling on the motion for class certification.
6. Affirmative expert reports are due 60 days after the ruling on the motion for class certification.
7. Rebuttal expert reports are due 90 days after the ruling on the motion for class certification.
8. Depositions of experts are to be completed 120 days after the ruling on the motion for class certification.
9. All discovery is to be completed 120 days after the ruling on the motion for class

certification.

10. A joint status report certifying the close of all discovery is due 120 days after the ruling on the motion for class certification.

11. If any party seeks a dispositive motion, the request for a pre-motion conference (if required) or the briefing schedule must be filed 127 days after the ruling on the motion for class certification.

The parties may jointly agree to amend the above dates by filing a further stipulation with the Court, which shall be subject to the Court's approval. This schedule may also be amended for cause upon application of a party to the Court.

Dated: New York, New York
October 28, 2021

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Attorneys for Plaintiff

SO ORDERED, _____, 2021
Honorable Peggy Kuo
United States Magistrate Judge